

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 268

AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. "Ballot card" ~~means a card on which votes are recorded by the process of punching or marking; refers to either a punch card ballot or an optical scan ballot.~~

SECTION 2. IC 3-5-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.5. "Ballot card voting system" refers to either a punch card voting system or an optical scan voting system.

SECTION 3. IC 3-5-2-33.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33.9. (a) "Optical scan ballot" means a card or another paper on which votes are:

- (1) recorded by marking the card or paper in ink or pencil; and
- (2) tabulated by an optical system that reads the marks on the card or paper.

(b) "Optical scan voting system" means a voting system using optical scan ballots.

SECTION 4. IC 3-5-2-41.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 41.5. "Punch card ballot" means a card on which votes are recorded by punching holes in the card.



SECTION 5. IC 3-5-2-41.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2001]: **Sec. 41.6. "Punch card voting system" means a voting system using punch card ballots.**

SECTION 6. IC 3-10-1-28.5, AS AMENDED BY P.L.176-1999, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 28.5. (a) If a ballot card voting system is used in a precinct, after a voter has marked a ballot card the voter shall place it inside the envelope provided for this purpose and return it to the judge.

(b) The judge shall remove the stub from the ballot card. This subsection does not apply to an optical scan ~~ballot card~~ voting system.

(c) The judge shall then offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it with the ballot card inside into the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

(d) The voter then shall leave the polls.

SECTION 7. IC 3-11-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]:

Chapter 6.5. Voting System Improvement

Sec. 1. (a) As used in this section, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) The department shall award quantity purchase agreements to vendors for new voting systems or upgrades or expansion of existing voting systems by counties.

(c) Both of the following must apply before the department may issue a quantity purchase agreement to a voting system vendor:

- (1) The commission has found that all of the following would be enhanced by the vendor's new or upgraded voting system:**
 - (A) Reliability of a county's voting system.**
 - (B) Efficiency of a county's voting system.**
 - (C) Ease of use by voters.**
 - (D) Public confidence in a county's voting system.**

(2) The commission has otherwise approved the vendor's new voting system or the upgrade or expansion of the existing voting system for use under this title.

(d) The quantity purchase agreement must include options for a county to:

- (1) purchase;**



(2) lease-purchase; or
 (3) lease;
 new voting systems or upgrades or expansion of existing voting systems.

Sec. 2. (a) The voting system improvement fund is established for the purpose of reimbursing counties for the:

(1) purchase;
 (2) lease-purchase; or
 (3) lease;
 of new voting systems or for the upgrade or expansion of existing voting systems.

(b) The fund consists of the following:

- (1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.
- (2) All money allocated to the state by the federal government for improvement of voting systems.
- (3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and a separate account within the fund for any money received by the state from the federal government. Proceeds of bonds issued by the Indiana bond bank under subdivision (3) may be deposited into either account, as determined by the election division.

(c) The election division shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is appropriated continuously for the purposes stated in subsection (a).

(h) Money in the fund derived from appropriations made by the general assembly or that are the proceeds of bonds issued by the Indiana bond bank may be used only to reimburse counties for the:

- (1) purchase;
- (2) lease-purchase; or
- (3) lease;



of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.

(i) Money in the fund derived from money received by the state from the federal government may be used for either of the following purposes:

(1) To reimburse counties for the:

- (A) purchase;
- (B) lease-purchase; or
- (C) lease;

of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.

(2) To reimburse counties for the purchase of new voting systems or upgrades or expansion of existing voting systems after January 1, 1998, and before July 1, 2001.

Sec. 3. To receive reimbursement under this chapter, a county must make an application to the budget agency not later than January 1, 2003, in the form required by the budget agency.

Sec. 4. The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the county's application demonstrates to the budget agency either of the following:

(1) That the county will:

- (A) purchase;
- (B) lease-purchase; or
- (C) lease;

a new voting system or an upgrade or expansion of an existing voting system from a vendor that has a quantity purchase agreement awarded under section 1 of this chapter.

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

- (A) Reliability of the county's voting system.
- (B) Efficiency of the county's voting system.
- (C) Ease of use of the county's voting system by voters.
- (D) Public confidence in the county's voting system.

Sec. 5. (a) If a county's application is approved under section 4 of this chapter, the election division shall, subject to this section, reimburse the county from the voting system improvement fund an amount equal to fifty percent (50%) of the purchase price of a new voting system or the upgrade or expansion of an existing voting



system. If the county has entered into an agreement to lease-purchase or lease a new voting system or the upgrade or expansion of an existing voting system, each year the election division shall reimburse the county fifty percent (50%) of the county's lease-purchase or lease payments for that year.

(b) Payment of money from the voting system improvement fund is subject to the availability of money in the fund and the requirements of this chapter.

(c) It is the intent of the general assembly that a county eligible for reimbursement under section 4 of this chapter be reimbursed from federal money received by the state to the maximum extent permitted by federal law.

(d) This section expires January 1, 2006.

Sec. 6. If federal money remains in the voting system improvement fund after all counties eligible for reimbursement under section 5 of this chapter have been reimbursed from federal funds to the maximum extent permitted by federal law, the remaining federal money reverts to the voting system education fund established by section 7 of this chapter, to the extent permitted by federal law.

Sec. 7. (a) The voting system education fund is established for the purpose of providing money for development and implementation of programs by counties for educating voters about voting procedures.

(b) The fund consists of money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.

(c) The election division shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is appropriated continuously for the purposes stated in subsection (a).

Sec. 8. (a) To receive payment for the development and implementation of a program for educating voters about voting procedures, a county must make an application to the budget agency in the form required by the budget agency.



(b) The budget agency, after review by the budget committee, shall approve a county's application for payment under this chapter if the county's application demonstrates to the budget agency all of the following:

- (1) That the county has developed a program for educating voters about the use of the county's voting system.
- (2) That the commission has approved the program and the county's implementation plan for the program.
- (3) That the program will enhance all of the following:
 - (A) Familiarity of voters with the county's voting system.
 - (B) Accessibility of the county's voting system to voters.
 - (C) Ease of use of the county's voting system by voters.
 - (D) Public confidence in the county's voting system.

(c) If a county's application is approved under this section, the division shall, subject to subsection (d), pay the county from the voting system education fund an amount equal to fifty percent (50%) of the amount of reasonable development and implementation costs of the county's program for educating voters about voting procedures, as determined by the budget agency.

(d) Payment of money from the voting system education fund under this section is subject to the availability of money in the fund and the requirements of this chapter.

SECTION 8. IC 3-11-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The commission must approve a ballot card voting system before it may be used in an election.

(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.

SECTION 9. IC 3-11-13-6, AS AMENDED BY P.L.176-1999, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Before an election at which a ballot card voting system is used, a county election board shall:

- (1) have the marking devices prepared for the election;
- (2) have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and
- (3) provide the precinct election officers with marking devices, a demonstration marking device (except in precincts using optical scan ~~ballot cards~~, **ballots**), ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.



(c) Each county election board shall have each ballot card voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 p.m. of the day before election day. The county executive shall provide transportation for the systems if requested to do so by the county election board.

SECTION 10. IC 3-11-13-18, AS AMENDED BY P.L.176-1999, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) This subsection does not apply to an optical scan ~~ballot card~~ voting system. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

- (1) The name of the political subdivision holding the election.
- (2) The designation of the election.
- (3) The date of the election.
- (4) The instructions to the voters.
- (5) In a primary election, the name of the political party.

(b) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(c) The ballot cards provided under subsection (b) must be:

- (1) designed to be folded; or
- (2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

(d) A write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

SECTION 11. IC 3-11-13-20, AS AMENDED BY P.L.26-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) This section does not apply to an optical scan ~~ballot card~~ voting system.

(b) Each county election board shall maintain a record of the serial numbers of all of the ballot cards provided to a precinct and shall note in this record the precinct to which each ballot card relates.

SECTION 12. IC 3-11-13-28.5, AS AMENDED BY P.L.176-1999, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.



(b) This subsection does not apply to an optical scan ~~ballot card~~ voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.

(c) As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

SECTION 13. IC 3-11-13-33, AS AMENDED BY P.L.176-1999, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. (a) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose or fold the envelope described in section 18(c)(1) of this chapter and return the ballot card to the judge.

(b) This subsection does not apply to an optical scan ballot ~~card~~ or to a ballot card with a fold-over envelope. The judge shall remove the second stub, as described in section 18 of this chapter, from the envelope and offer the second stub to the voter.

(c) The judge shall offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it in the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

(d) If a voter offers to vote a ballot card that is not inside the envelope provided for this purpose or with the envelope not folded if the ballot is described in section 18(c)(1) of this chapter, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose or fold the envelope.

(e) After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

(f) After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

SECTION 14. IC 3-11-13-35, AS AMENDED BY P.L.176-1999, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2001]: Sec. 35. (a) If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

(b) This subsection does not apply to an optical scan ballot. ~~card~~: A voter returning a ballot must comply with subsection (a) by folding the stub on the ballot card.

(c) After complying with subsection (b), the voter then may receive another ballot card. Upon receipt of a defective ballot card, the precinct election board shall:

- (1) immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and
- (2) without detaching any stub attached to the card, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.

SECTION 15. [EFFECTIVE JULY 1, 2001] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) As used in this SECTION, "fund" refers to the voting system improvement fund established by IC 3-11-6.5-2, as added by this act.

(c) Not later than August 1, 2003, the commission shall determine the total of the following, as of July 1, 2003:

- (1) The amount of appropriations made to the fund.**
- (2) The amount of money deposited in the fund.**

(d) If the commission determines that the total of the amounts described in subsection (c) is not less than five million dollars (\$5,000,000), the commission shall prohibit the use of punch card voting systems in elections in Indiana, effective December 31, 2005.

(e) This SECTION expires July 1, 2006.

SECTION 16. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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